

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 9-16 are pending in this application. By this Amendment, the specification is amended and claims 9-11 and 14-16 are amended.

Examiner indicates that the oath or declaration is defective. A new declaration is filed herewith correcting the typewritten names.

Objections to the Specification under 37 CFR 1.77

The Patent and Trademark Office (PTO) objects to the specification for lacking sectional headings as set forth under 37 CFR 1.77(b). This objection is obviated by the amendments to the specification. Accordingly, withdrawal of the objection to the specification is respectfully requested.

Objections/Rejections to the Specification

The PTO objects to the specification under 37 CFR 1.71 in that it fails to teach one of ordinary skill-in-the-art how to make and/or use the invention. Applicants respectfully submit that the specification fully supports the amendments to the claims that more clearly recite a method of synchronizing recurrent responses. Based upon these claim amendments, and the following remarks, Applicants respectfully submit that the specification fully complies with 37 CFR 1.71.

Paragraph 7 of the Office Action indicates that there is "no real disclosure of a 'secondary radar' in the specification." Applicants respectfully disagree. The specification, at page 5, lines 31-35, discloses wherein "Fig. 2 represents an exemplary receiver of a secondary radar. This radar comprises a device for processing the pulses 10 which receives, as input, signals (radar video)...." Furthermore, pages 8-11 describe in detail, the claimed method of defruiting transponder responses received by a

secondary radar. Accordingly, withdrawal of the objection to the specification under 37 CFR 1.71 is respectfully requested.

Claims 9-16 are likewise rejected under 35 U.S.C. §112, *first paragraph*, as failing to comply with the written description requirement. This rejection is respectfully traversed.

Applicants respectfully submit that there is a strong presumption that an adequate written description of the claimed invention is present when the application is filed, and that the PTO has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in Applicants' disclosure a description of the invention defined by the claims. *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) ("we are of the opinion that the PTO has the initial burden of presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims"). The PTO has failed to meet this burden.

Based upon argument presented above in response to the objection to the specification, and because the PTO has failed to meet the burden of presenting why a person of ordinary skill in the art would not recognize in Applicants' disclosure a description of the invention defined by the claims. In view of the foregoing, Applicants respectfully submit that claim method of defruiting transponder responses fully complies with 35 U.S.C. §112, *first paragraph*. Accordingly, withdrawal of the rejection is respectfully requested.

Objections to the Drawings

The PTO objects to the figures. Regarding Fig. 2, the Examiner asserts that Fig. 2 is described in the specification as an "exemplary receiver" (page 4, line 2), and such, must be labeled "PRIOR ART." Applicants respectfully traverse this objection and submit that use of the term "exemplary receiver" does not by itself suggest that the Applicants are disclosing prior art. Indeed, the phrase does not appear in what is amended to be the background section, but rather, appears in what is now the detailed

description section. Applicants respectfully submit that the Examiner has interpreted the word “exemplary” out of context and further submits that when read in context of the entire detailed description section, a more logical interpretation would implicitly append the words “of the instant invention,” such that the phrase would be interpreted as reading “exemplary receiver of the instant invention.” Unlike Fig. 3 that is clearly described as prior art, and is labeled as such in the drawing, nowhere is there any suggestion that the Applicants intend Fig. 2 to be prior art.

The PTO further posits that the drawings fail to show the claimed apparatus recited in claims 15 and 16. As submitted above, Fig. 2 is an exemplary embodiment of the instant invention and as such, depicts the elements recited in claims 15 and 16, e.g., correlator 80. Accordingly, Applicants respectfully submit that Fig. 2 is not prior art, and therefore may be used to provide support for recited elements of claims 15 and 16. Withdrawal of the objection to the drawings is respectfully requested.

Rejections under 35 USC §112

The PTO rejects claims 9-16 under 35 U.S.C. §112, *second paragraph*, asserting that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. As presented above, claim 9 is amended to more clearly recite the method recited. Furthermore, claims 15 and 16 are amended to recite a system and apparatus based upon the method of claim 9. In view of the foregoing, Applicants respectfully submit that claims 9-16 fully complies with 35 U.S.C. §112, *second paragraph*. Accordingly, withdrawal of the rejection is respectfully requested.

Rejections under 35 USC §101

The PTO asserts that claims 9-14 are directed to non-statutory subject matter. Claim 9 is amended to more clearly recite the method by which transponder responses received by a secondary radar are defruited. Accordingly, withdrawal of the rejection is respectfully requested.

The Examiner objects to the disclosure for informalities. The objection is obviated by the amendments to the specification. Accordingly, withdrawal of the objection to the disclosure is respectfully requested.

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

Early issuance of a Notice of Allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP



Kenneth M. Berner
Registration No. 37,093

Enclosures:
Executed Declaration

1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
Date: July 15, 2008
KMB/ERM/ser